

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Nunez Analyst: Rachel Coco Bill Number: AB 2813
Related Bills: See Legislative History Telephone: 845-4328 Introduced Date: February 20, 2004
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employers Notify Employees Of Federal Earned Income Credit/Earned Income Tax Credit Information Act

SUMMARY

This bill would require employers to notify their employees about the Federal Earned Income Tax Credit (EITC).

PURPOSE OF THE BILL

According to the author's staff, the purpose of the bill is to ensure that eligible Californian's receive their share of federal money that is available through the EITC program.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2005.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Existing federal law allows a refundable income tax credit for low-income working individuals and families, known as the EITC. This credit reduces the amount of federal tax owed and can result in a refund if the EITC exceeds the amount of the tax liability.

The amount of the EITC is prorated based on income and begins to phase out at certain income levels. For the 2003 taxable year, the total earned income must be under \$33,692 (\$34,692 for married filing jointly). In addition, the maximum EITC amounts for 2003 are:

<u>Qualifying Child</u>	<u>Maximum EITC</u>
Two or more children	\$4,204
One child	\$2,547
No children	\$382

Existing federal law allows an eligible individual to receive advance payment of the EITC by providing the employer with a Form W-5.

Board Position:

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Department Director

Date

Gerald H. Goldberg

4/6/04

Through its Stakeholder Partnerships, Education, and Communication (SPEC) organization, the IRS currently provides EITC information with utility bills, school report cards, Forms W-2, Forms 1099, and company newsletters; through direct mailings by housing authorities and social service agencies; and through advertising, workshops, seminars, and neighborhood outreach.

Existing state law does not provide an EITC.

THIS BILL

This bill would require every California employer that provides unemployment insurance to their employees to notify the employees of their possible eligibility for the federal EITC.

This bill would require that the employer notify the employee upon initial employment and within one week of the distribution of the employee's annual wage summary, unless the employee's gross wages exceed the EITC gross income limitations.

The bill would allow employers to give or mail either any federal notice relating to the availability of EITC or any notice created by the employer that would provide sufficient information to inform the employees of their possible EITC eligibility.

In addition, this bill would require the employer to provide and process Form W-5 for advance payments of the EITC upon the request of an employee.

IMPLEMENTATION CONSIDERATIONS

Under this bill, the department, like other employers, would be required to notify eligible employees of the EITC and, upon an employee request, process Form W-5 for advance EITC payments.

Implementing this bill should not significantly impact the department. Department personnel staff has stated that the department currently processes Form W-5 for advance payments of the EITC upon an employee's request.

In regard to notifying eligible employees, department personnel staff has determined that the initial EITC notification could be provided upon employment during pre-processing classes, in which all personnel paperwork is completed. However, the additional notification to be included with the Form W-2 would be difficult for the department since the State Controller's Office (SCO) has the responsibility of providing Form W-2 to all state employees. Therefore, it is assumed that SCO would include the EITC notification when distributing the Form W-2.

LEGISLATIVE HISTORY

AB 1370 (Wesson, 1999/2000) contained the same language as this bill. AB 1370 was vetoed by Governor Davis. The veto message stated that because the EITC is a federal program, the responsibility of educating taxpayers about it should fall with the federal government.

OTHER STATES' INFORMATION

A review of other states' tax laws found that only 2 of the 50 states are currently providing EITC notification to employees.

Delaware requires employers to provide written notification regarding eligibility for the EITC to employees whose gross wages do not exceed the maximum amount for the credit.

Illinois requires employers to provide eligible employees with information on how to claim the EITC within one week of providing the employee with Form W-2.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

POLICY CONCERNS

While the bill provides that employers shall provide notification of the EITC, it is silent with respect to how employers would be treated should they fail to comply with the provisions.

LEGISLATIVE STAFF CONTACT

Rachel Coco
Franchise Tax Board
845-4328
rachel.coco@ftb.ca.gov

Brian Putler
Franchise Tax Board
845-6333
brian.putler@ftb.ca.gov